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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/168,770	10/08/1998	RASHMI K. SHAH	TH-1042(US)	2851

7590

08/01/2003

DEL S CHRISTENSEN  
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INTELLECTUAL PROPERTY  
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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 08/01/2003

31

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

**Application No.**

09/168,770

**Applicant(s)**

SHAH ET AL.

**Examiner**

Basia Ridley

**Art Unit**

1764

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 27 May 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

Continuation of 9. Other (including any explanation in support of the above items): The brief does not contain arguments of the appellant with respect to each of the issues presented for review in 37 CFR 1.192(c)(6), and the basis therefor, with citations of the authorities, statutes, and parts of the record relied on as required by 37 CFR 1.192(c)(8).

Appellant's arguments with respect to Fig. 4 of Ruhl are not germane to rejection of record. The appellant has not presented any arguments regarding rejections based on Fig. 1 of Ruhl in view of Mikus or regarding rejections based on Fig. 1 of Ruhl in view of Mikus and further in view of Minet et al., which are the only rejections of record (the rejections based on Ruhl alone were overcome by Reply filed on 7 March 2003, as set forth in Advisory action mailed on 21 March 2003).

The only rejections of record are based on Fig. 1 of Ruhl in view of Mikus or on Fig. 1 of Ruhl in view of Mikus and further in view of Minet et al. (as set forth in Final Office action mailed on 2 January 2003). The motivation statement for combining said two references is specific to the Fig. 1 of Ruhl. Additionally, to reiterate that Fig. 1 has been used intentionally, the examiner had stated: "While Ruhl shows embodiments of his heater which operate without a flame (see Fig. 4), such operation is not disclosed with respect to Fig. 1." (see lines 1-2 on page 9 of said Office action). Further, in the Advisory action mailed on 21 March 2003 examiner states that "Applicant's arguments with respect to Fig. 4 are not applicable to the rejection of record".



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